



**INDEPENDENT COMMUNITY
BANKERS of AMERICA**

August 31, 2009

Federal Housing Finance Agency
1700 G Street, NW
Washington, DC 20552

Attention: Public Comment – RIN 2590-AA17 (Prior Approval for Enterprise Products)

Dear Sir or Madam:

The Independent Community Bankers of America¹ (ICBA) welcomes the opportunity to comment on the Federal Housing Finance Agency's interim final rule, Prior Approval for Enterprise Products.

The interim final rule would implement section 1321 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 as amended by section 1123 of the Housing and Economic Recovery Act of 2008 and establish a process for Fannie Mae and Freddie Mac to obtain prior approval from the FHFA for a new product and provide prior notice to the FHFA of a new activity. The rule is intended to provide the FHFA the opportunity to determine prior to Fannie Mae or Freddie Mac commencing a new activity whether the new activity is a new product and if it is a new product, to determine whether the new product is authorized by their charter, is in the public interest, and is consistent with the safety and soundness of the institution or the mortgage finance system or financial system.

ICBA supports the interim final rule that sets out a framework for the prior approval of new products to implement requirements contained in the 2008 Act. We hope that this approval process can be conducted in a manner that encourages innovation and a rapid response to market changes while providing the protections envisioned by the Act. The differences between "new products" and "new activities" may be difficult to discern at times so it will be important that FHFA work together with Fannie Mae and Freddie Mac in a consultative relationship so that timely and accurate assessments can be made about

¹ *The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing over 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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new innovations given the constraint of the approval process and the penalties due for noncompliance.

Regarding such penalties, ICBA is concerned about section 1253.6(b) that states “any person responsible for any material misrepresentation or omission” in conjunction with an approval submission may be subject to various enforcement remedies, including criminal penalties under 18 U.S.C. 1001. We believe this is too onerous in that it could be interpreted to broadly. We urge the FHFA to clarify that it only applies to knowing or willful material misrepresentations or omissions, in accordance with the terms of 18 U.S. C. 1001.

We appreciate the opportunity to comment on the interim final rule. If you have any questions about our views, I may be reached by email at ann.grochala@icba.org or by phone at 202-659-8111.

Sincerely,

/s/

Ann M. Grochala
Vice President, Lending and Accounting Policy